

## **Superfund Program Implementation Manual FY 09**

### **Appendix F: Removals**

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## **APPENDIX F: REMOVALS**

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## **APPENDIX F: REMOVALS**

### ***F.A. PROTECT HUMAN HEALTH AND THE ENVIRONMENT***

Protection of human health and the environment remains the highest priority for the Superfund Program. EPA will continue to address the worst sites first while balancing the need to complete response actions at sites. The Agency will ensure that available resources are disbursed in a fiscally sound manner. Maximizing Potentially Responsible Party (PRP) involvement remains a high priority.

#### **F.A.1. Removal Actions**

The goal of EPA's emergency response and removal program is to provide quick response to immediate threats to public health and the environment from releases of hazardous substances whenever and wherever they occur.

EPA will continue to enhance its emergency response infrastructure through procurement of state-of-the-art response equipment and continued training and exercising of response personnel. EPA will also ensure that the appropriate resources and contract vehicles are available to conduct necessary removal actions.

#### **F.A.2. Homeland Security**

EPA played a crucial role in response to the terrorist attacks of September 11, 2001, particularly, through its emergency response program. Subsequently, the Agency has played a major role in response to anthrax attacks, the crash of the Columbia space shuttle in Texas, and natural disasters (primarily Hurricanes Katrina and Rita). In each case, the Agency has developed lessons learned from the response and is making appropriate adjustments to our standard procedures. A major development is the National Approach to Response (NAR) that addresses a variety of issues related to improving EPA's response capabilities (e.g., health and safety, training and exercises, communications (both internally and with the public at large), and equipment).

The 2006-2011 Strategic Plan calls for the emergency response and removal program to meet the following target: "By 2011, achieve and maintain at least 95 percent of the maximum score on readiness evaluation criteria." The readiness criteria (known as "Core ER") are applied to the regions, appropriate headquarters offices and Special Teams that are likely to be involved in a response. The score reported for the Strategic Plan will be a weighted composite of all the scores for headquarters, Special Teams, and the regions.

EPA's field response capability relies on a support infrastructure including specialized equipment, equipment inventories, and laboratory support. The Agency will continue to build on its equipment support by identifying state-of-the-art detection, monitoring, and response equipment designed to address chemical, biological, and radiological agents. Also, EPA will build inventories of standard response equipment such as personal protective gear to ensure that it is prepared to respond to multiple incidents. Equipment will be maintained and replaced as necessary to ensure the Agency has the best technology available.

EPA's field responders and National Response System special forces require extensive training in a variety of response-related areas, including scientific and technical training for detection, analysis, and response to chemical, biological, and radiological agents; and training in incident command system response management processes. Training courses will be developed and implemented for different levels of response experience and involvement, including refresher courses for senior, experienced responders; in-depth training for newer responders in both scientific and response management areas; and training for all responders in state-of-the-art response techniques and emerging chemical, biological, and radiological threats.

EPA's Environmental Response Team (ERT) will continue to provide specialized field support to Regional responders, including specialized air monitoring, health and safety support, and other scientific and technical support. ERT will continue to enhance its capabilities in its Edison, New Jersey, Cincinnati, Ohio, and Las Vegas, Nevada, locations to ensure that they are ready at all times to quickly and effectively meet the specialized field support needs of EPA's responders, including those responses to terrorist incidents with biological, chemical, and radiological agents.

EPA will continue the development of the National Response Decontamination Team (Decon Team) that provides unique, immediate response capabilities to safely and effectively support decontamination activities related to chemical, biological, and radiological terrorism events. While focused domestically, the Decon Team may respond worldwide delivering scientific and engineering expertise for the decontamination of buildings, building contents, public infrastructure, indoor environments and the associated environmental media. The primary function of the Decon Team is to support EPA OSCs conducting or overseeing response activities under the authorities of the National Contingency Plan (NCP) at the scene of the aftermath of a weapon of mass destruction (WMD) event. The Decon Team is designed to integrate with and operate from within incident command structures, along with and complementing other Special Forces. When not fully engaged, this team is devoted to preparedness activities related to the team's primary function.

EPA's capability to respond effectively to chemical, biological, and radiological incidents will be measured through the Core Emergency Response (Core ER) program. This continued enhancement in EPA's Regional response capabilities will cover all aspects of the Core ER program, including Regional Response Centers, transportation, coordination with backup Regions, health and safety, delegation and warrant authorities, response readiness, response equipment, identification clothing, training and exercises, and outreach. The Agency has established measurable improvement goals in Core ER and will work toward that improvement through exercises and other program enhancements.

EPA has established criteria of excellence through the structure of the Core ER program. While EPA is currently prepared to respond to chemical, biological, and radiological incidents, improvement in the emergency response and homeland security readiness measure will demonstrate an increased ability to respond quickly and effectively to national-scale events.

### **F.A.3. Overview of Removal Actions Targets/Measures**

The Superfund Comprehensive Accomplishments Plan (SCAP) is used by the Assistant Administrator for the Office of Solid Waste and Emergency Response (AA OSWER), Assistant Administrator for the Office of Enforcement and Compliance Assurance (AA OECA), and senior Superfund managers to monitor progress each region is making towards achieving the Government Performance and Results Act (GPRA) annual performance goals. In addition, SCAP will continue to be used as an internal management tool to project and track activities that contribute to these GPRA goals and support resource allocation. The program will set national goals based on historical performance and performance expectations within a limited budget for the performance goals in GPRA and track accomplishments in the activities contributing to those goals. Regions should continue to plan and report accomplishments in CERCLIS as they have traditionally.

To more clearly reflect the relationship between GPRA and the SCAP process, GPRA annual performance goals and measures and program targets and measures are defined as follows:

- GPRA Annual Performance Goals (APG) and GPRA Annual Performance Measures (APM) - The Agency's Annual Plan describes the specific annual performance goals, annual measures of outputs and outcomes, and activities aimed at achieving the performance goals that will be carried out during the year. APGs are the specific activities that the Agency plans to conduct during the fiscal year in an effort towards achieving its long-term strategic goals and objectives. APMs are used by managers to determine how well a program or activity is doing in achieving milestones that have been set for the year. The annual performance goals will inform Congress and Agency stakeholders of the expected level of achievement for the significant activities covered by the GPRA objective. The goals are a subset of the overall planning and budgeting information that has traditionally been tracked by the Superfund program offices.

- Program Targets and Measures are activities deemed essential to tracking overall program progress. Program targets are used to identify and track the number of actions that each region is expected to perform during the year and to evaluate program progress. Program measures are used to show progress made in achieving program priorities.

The following pages contain the definitions of the FY 08/09 removal activities, GPRA annual performance goals, GPRA and program measures, and removal project support activities. Exhibit F.1 displays the full list of removal and activities defined in this Appendix. Exhibit F.2, at the end of this Appendix lists the subject matter experts for each relevant subject area.

#### EXHIBIT F.1. REMOVAL ACTION ACTIVITIES

ACTIVITY	GPRA		PROGRAM	
	APG	APM	Target	Measure
Removal Starts				T
Removal Completions	T	T		

##### a. Removal Starts

###### Definition:

Removal actions are responses performed at NPL and non-NPL sites that eliminate or reduce threats to public health or the environment from the release, or potential release, of hazardous substances or pollutants or contaminants which may pose an imminent and substantial danger to public health or welfare. These risk reduction activities can be conducted as emergency, time-critical, or NTC removal actions. This measure tracks each removal action. The appropriate use of Special Account funds for removal actions is provided in the Guidance on Key Decision Points in Using Special Account Funds dated September 28, 2001.

###### Definition of Accomplishment:

A site is addressed by a removal action when the EPA, Response Action Contract (RAC), Emergency and Rapid Response Services (ERRS), State, or PRP, or their contractors, have mobilized for construction of the removal action specified in the Action Memorandum.

- *Fund-financed* (Including F-, TR-, or S-lead) actions - EPA, State or their contractors have begun work at a site for construction of the removal (emergency, time-critical, or non-time critical) as documented by a Pollution Report (POLREP). The date of on-site construction is reported in CERCLIS as the removal (Action Name = Removal Action) actual start date (Actual Start).
- *PRP-financed from a Special Account* (Including Special Account Financed Action performed by EPA (SA-lead), the State (SS-Lead), or Tribal Government (ST-lead) actions) - EPA, State, tribal government or their contractors have begun work at a site for construction of the PRP-financed removal (emergency, time-critical, or non-time critical) as documented by a Pollution Report (POLREP). The date of on-site construction is reported in CERCLIS as the removal (Action Name = Removal Action) actual start date (Actual Start).
- *PRP-financed* (Including RP- and MR- lead) actions under the terms of an AOC, UAO, CD, or judgment - The PRPs or their contractors have begun work on-site for construction of the removal (emergency, time critical, or non-time critical) as documented in a POLREP AND the PRPs provide written notice of intent to comply with a UAO, or an enforcement instrument has been signed by EPA and the PRPs, or a judgment has been signed by a Federal judge.

The date of on-site construction is reported in CERCLIS as the removal (Action Name = PRP Removal) actual start date (Actual Start). The following information must be entered into CERCLIS for the enforcement instrument:

- The date the AOC (Action Name = Admin Order on Consent) was signed by the PRPs and the designated Regional official (Actual Complete), and the Response Acts Pd by Parties of PRP Removal; or
- The date (Actual Complete) the PRPs provide notice of intent to comply (Action Name = PRP Notify EPA of Intent to Comply) with a UAO for a RP-lead removal signed (Actual Complete) by the designated Regional official (Action Name = Unilateral Admin Order), and the Response Acts Pd by Parties of PRP Removal; or
- The date the Regional Administrator signs the memorandum transmitting the CD (Action Name = Consent Decree) to DOJ or HQ and the Response Acts Pd by Parties of PRP Removal; or
- The date a judgment (Action Name = Judicial/Civil Judgment) was signed by the Federal judge (Actual Complete), and the Response Acts Pd by Parties of PRP Removal.
- *PRP-financed* (PS-lead actions) under terms of a State Order or decree - The PRPs or their contractors have begun work on-site for construction of the removal (emergency, time critical, or non-time critical) as documented in a Pollution Report (POLREP) and the State enforcement instrument has been signed by the appropriate State official.
- *PRP-Lead* (RP- lead actions) Emergency Removals Without an Enforceable Instrument - The PRP or their contractors have begun construction work on-site in response to an emergency incident and EPA provides on-site technical oversight and/or is part of an incident command system/unified command (as documented in a POLREP). The date of construction is reported in CERCLIS as the removal (Action Name = PRP Emergency Removal), actual start date (Actual Start).
- For both Fund- and PRP-financed removals, the following additional information must be entered into CERCLIS:
  - The Critical Indicator classification of the removal [(1) Emergency, (2) Time Critical, and (3) Non-Time Critical];
  - The media addressed through the removal (Media Type);
  - The Media Name;
  - The Response Action being conducted (Selected Response Actions);
  - The response action cost data;
  - The Institutional Control information; and
  - The five year review information (at NPL sites only).

An endangerment determination should be documented when an Action Memo or Removal Action Decision Document or an enforcement instrument is prepared. Regions identify which of the documents contain the endangerment determination when they enter the actual completion date (Actual Complete) for the corresponding action into CERCLIS.

Changes in Definition FY 06/07 - FY 08/09:

None.

Planning/Reporting Requirements:

Program policy remains enforcement first. Headquarters encourages the Regions, in order to be able to bill for oversight costs, to use enforceable instruments for PRP-Lead time critical and non-time critical removals.

Fund-financed removals, PRP-financed removals under the terms of an enforceable instrument, PRP-financed emergency removals without an enforceable instrument, and PRP-financed time-critical and non-time-critical removals without an enforceable instrument will be tracked separately for management purposes. Removals are covered under the removal AOA. Removal start totals will not include Coast Guard leads. Coast Guard lead removals are recorded non-site-specifically in CERCLIS through the program management screen.



**b. Removal Completions**Definition:

Removal actions are responses performed at NPL or non-NPL sites that eliminate or reduce threats to public health or the environment from the release, or potential release, of hazardous substances or pollutants or contaminants which may present an imminent and substantial danger to public health or welfare. These risk reduction activities can be conducted as emergency, time-critical or NTC removal actions. This measure tracks each removal completion at a site.

**DISCLAIMER:** Regions will receive credit in the management of the Superfund program for completion of a removal action even though the removal action itself may not be complete for cost recovery statute of limitations purposes. Agency policy for statute of limitations purposes provides that a removal is not complete until EPA has made a final decision on whether any additional cleanup activity is required (and, if it is required, until EPA has both made a final decision on such additional activity and has completed the design for that activity). The date found in the removal action, actual complete column of a CERCLIS report is a programmatic measure only, and cannot be relied upon to create any rights, substantive or procedural, enforceable by any party in litigation with the United States. EPA reserves the right to change such data at any time without public notice.

Definition of Accomplishment:

Following are the conditions under which a removal is considered complete:

- A Fund-financed removal is considered complete when the actions specified in the Action Memorandum are met, OR when the contractor has demobilized and left the site (as documented in the POLREP) and recorded as the removal (Action Name = Removal Action) actual completion date (Actual Complete) in CERCLIS.
- A PRP-financed removal performed by the PRP under the terms of a Federal enforcement instrument, is considered complete when the Region has certified that the PRPs have fully met the terms of an AOC, UAO, CD, or judgment and have completed the actions specified in the Action Memorandum (as documented in the POLREP) and recorded as the removal (Action Name = PRP Removal) actual completion date (Actual Complete) in CERCLIS.
- A PRP-financed removal performed by the PRPs under the terms of a State enforcement document is considered complete when the State has certified the PRPs have fully met the terms of the instrument AND have completed the actions specified in the Action Memorandum (as documented in the POLREP) and recorded as the removal (Action Name = PRP Removal) actual completion date (Actual Complete) in CERCLIS.
- A PRP-financed emergency removal action where no enforcement instrument exists is considered complete when the OSC, in consultation with the unified command/incident command system if applicable, has determined that the emergency is stabilized (as documented in a POLREP) and recorded as the removal (Action Name = PRP Emergency Removal) actual completion date (Actual Complete) in CERCLIS.

In order to receive credit for a removal completion an endangerment determination must be performed. This endangerment determination may be documented in an Action Memo, Removal Action Decision Document or enforcement instrument. Regions identify which of these documents contain the endangerment determination by entering the actual completion date (Actual Complete) into CERCLIS.

For either Fund- or PRP-financed removals, an action qualifier (Qualifier) must be recorded to identify whether the action resulted in the site being Cleaned Up or Stabilized.

Action qualifiers are defined as follows:

- Cleaned Up: All threats have been addressed as defined in the Action Memo and the region determines that it has addressed all threats posed by the site (will not be returning for subsequent response activity). Also, all removal obligations and related work have been completed.
- Stabilized: All threats identified in the Action Memo have been addressed. The region may take additional removal actions as new threats are identified/investigatory information is available.

Example: Leaking drums and contaminated soil in the area of the drums are excavated and disposed of in an approved off-site facility. Site is stabilized.

Exceptions:

Temporary demobilization and temporary storage on-site are not considered completions, unless temporary storage is the only action specified in the Action Memorandum to mitigate threats to public health, welfare, and the environment. Likewise, temporary off-site storage of hazardous substances at a Treatment, Storage, and Disposal (TSD) facility other than the facility of ultimate disposal is a continuation of the action, not a completion, unless temporary off-site storage at a TSD is the only action specified in the Action Memorandum. In addition, a removal would not be considered complete if:

- The Action Memorandum requires the EPA contractor to monitor the hazardous substances stored on-site or additional contractor expenditures are anticipated; or
- Hazardous substances are being stored at an off-site facility, other than the ultimate TSD facility required in the Action Memorandum.
- A removal would be considered complete if:
- The scope of work for the action does not specify final off-site disposal of hazardous substances; the substances have been stabilized and are stored on-site due to circumstances such as the unavailability of a final treatment/disposal remedy; and no additional Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) removal authority funds are anticipated to be expended on this action. In this instance, no CERCLA removal authority funds will be expended for remedial-term site O&M. Any remedial-term site O&M (greater than 6 months) should be performed by the PRP or another agency (e.g., the State); or
- Hazardous substances are being stored off-site at the location of final disposal, and no additional contractor expenditures are anticipated for this action.

Changes in Definition FY 06/07-FY 08/09:

None.

Special Planning/Reporting Requirements:

Upon completion of a removal, an action Qualifier must be recorded to identify whether the removal resulted in the site being Cleaned Up or Stabilized. This is a both a GPRA annual performance goal and GPRA measure. Removal completion totals will not include Coast Guard leads. Coast Guard lead removals are recorded non-site-specifically in CERCLIS through the program management screen.

***F.B. SUBJECT MATTER EXPERTS***

The following exhibit identifies the subject matter experts for Appendix F: Removals.

**EXHIBIT F.2. SUBJECT MATTER EXPERTS**

<b>Subject Matter Expert</b>	<b>Subject Area</b>	<b>Phone #</b>	<b>Email</b>
<b>Josh Woodyard</b>	OEM Strategic Planning/ Reporting	202-566-0738	<a href="mailto:woodyard.joshua@epa.gov">woodyard.joshua@epa.gov</a>
<b>Bill Finan</b>	Removal Implementation	202-564-7981	<a href="mailto:finan.bill@epa.gov">finan.bill@epa.gov</a>

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